IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:	§	
Chen-Tsai LEE	§	Attorney Docket No.: P-3641.147
	§	
Application No. 09/886,225	§	
	§	
Filing Date: June 21, 2001	§	
	§	
Title: MEMORY INTERLACE –	§	
CHECKING METHOD	§	

Mail Stop: Petition to Revive
Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(a)

1.   Applicant petitions for the revival of the above-identified application.

2.   Nature of Abandonment:

The Office notified Applicant's Attorney Thomas E. Sisson on February 25, 2005, that the application was abandoned for failure to timely file a proper reply to an Office Action mailed February 27, 2004. (Attachment 1).

3.   However, the Applicant filed a response on June 21, 2004 with a request for a one month extension of time to and including June 27, 2004 (Attachment 2). A copy of the return postcard showing U.S. Patent and Trademark Office receipt of the Response, the Extension of Time and the payment of the fee is attached (Attachment 3).

4.   On December 1, 2004 the Applicant filed a Status Request asking the status of the Application. Enclosed is a copy of the Request (Attachment 4) with a copy of the stamped postcard (Attachment 5), indicating receipt of the Request by the Office on December 6, 2004.

5.   On December 28, 2004, Examiner Guy Lamarre called the undersigned's office indicating that the Office had not received a response to the February 27, 2004 Office Action. The Examiner was advised that a response had been sent in June 2004, and he was faxed another copy of the June 21st response on December 29, 2004. Attached is a copy of the Office's Auto-Reply Facsimile Transmission (Attachment 6).
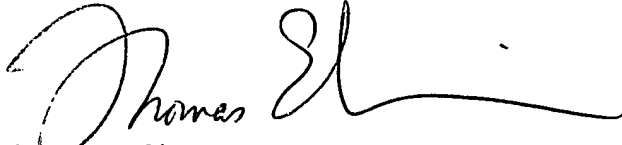
6.   On January 19, 2005 the undersigned, Thomas E. Sisson, called Examiner Lamarre at 571-272-3826 and the Examine Lamarre confirmed to Mr. Sisson that prosecution of the application was continuing.

1

7.   Then, on February 25, 2005, the Applicant received a copy of Examiner Lamarre's Advisory Action dated February 23, 2005 (Attachment 7). On this same day, Mr. Sisson (Attorney of Record) also received a telephone call from Examiner Lamarre who informed Mr. Sisson that the application was abandoned. Examiner Lamarre said he knew a response had been timely filed. Examiner Lamarre then said that Mr. Sisson should file a petition to revive, because the Patent Office had "lost" the file during a relocation of the Examiner's Office. Examiner Lamarre said there would be no fee for the petition.

8.   Since the reason for abandonment is the result of error on the part of the USPTO,. the Applicant should not have to pay any petition fees.

9.   This Petition is being filed within less than one month from the date the Office noticed the Applicant of the abandonment.

Respectfully submitted,
JACKSON WALKER L.L.P.

Thomas E. Sisson
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San Antonio, Texas 78205
(210) 978-7700 (phone)
(210) 978-7790 (fax)
Attorneys for Applicant

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service under 37 CFR 1.8(a) with sufficient postage in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450", as follows:

Via _EXPRESS MAIL # EV675655670US_

Dated: _3-17-2005_

Laura Pope
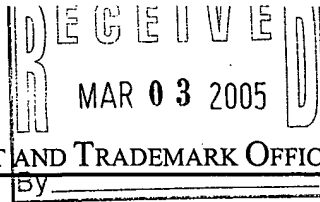
3

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,225	06/21/2001	Chen-Tsai Lee	P-3641.147	5860

7590   03/01/2005

ABANDONED

Jackson Walker L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio, TX 78205

REVIVE

DOCKETED 03/25/05

FILE NO. _____

EXAMINER
LAMARRE, GUY J

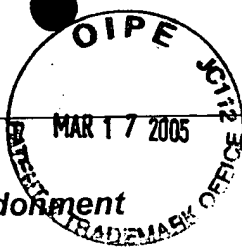| ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.	Applicant(s)
09/886,225	LEE, CHEN-TSAI
Examiner	**Art Unit**
Guy J. Lamarre, P.E.	2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on <u>27 February 2004</u>.

   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____); which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).

   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.

   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.

   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

   The 6-month statutory period to reply has elapsed. On 25 Feb. 2005, Applicant's representative (Tom Sisson) is advised that petition to revive instant case is required.

Guy J. Lamarre, P.E
Primary Examiner

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

P-3641.147   TES:lcp   Date: June 21, 2004

In re Application Of: Chen-Tsai LEE
Serial No. 09/886,225;   Filed June 21, 2001
Title: MEMORY INTERLACE-CHECKING METHOD

The date stamp and serial number of the U.S. Patent and Trademark Office will acknowledge receipt.

--Extension of Time
--Amendment and Response
--Check for $110.00

EV298841847US

Vendor ID: 32984   Req307766   NATOD   <000180472852<   Check Date: 06/21/2004   Check #: 396712

Disb ID 6410483   C/M# 303641.00147   PATF   PAYEE: Commissioner of Patents; REQUEST#: 307766; DATE: 110.00
06/21/2004. - Extension of Time Check; P-3641.147

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of: Chen-Tsai Lee	§ § §	Attorney Docket No.: P-3641.147
Serial No.: 09/886,225	§ §	Group Art Unit: 2133
Filed: June 21, 2001	§ §	Examiner: Aleksandr L. Yufa
Title: MEMORY INTERLACE-CHECKING METHOD	§ §	

REQUEST FOR EXTENSION OF TIME

The applicant requests a one-month extension of time to and including June 27, 2004, in which to respond to the outstanding office action dated February 27, 2004. Enclosed herewith is a check for $110.00 to cover the fee, and an acknowledgment postcard. Any deficiency in fee should be charged to account No. 07-2400.
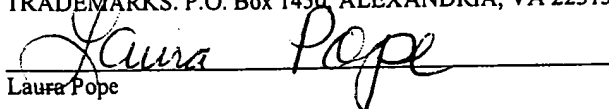
Respectfully submitted,
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Fax: (210) 978-7790
Attorneys for Applicant

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of: §   Attorney Docket No.: P-3641.147
        Chen-Tsai Lee   §
                                          §
Serial No.:   09/886,225   §   Group Art Unit: 2133
                                          §
Filed: June 21, 2001   §   Examiner: Aleksandr L. Yufa
                                          §
Title: MEMORY INTERLACE-CHECKING   §
METHOD

Mail Stop Response
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT AND RESPONSE

Responsive to the office communication dated February 27, 2004, the applicant responds as

follows. The applicant has requested a one month extension of time to and including June 27, 2004,

and has paid the appropriate fee.

IN THE CLAIMS:

Claims 1-6 and 11-13 are pending.

Claims 1-3 and 11-13 remain unchanged in this response.

Claims 5 and 6 are cancelled herein.

Claim 4 is amended herein.

The status of the claims is as follows:

1. (Previously amended) A memory interlace-checking method to detect weakened memory in a memory array composed of odd and even addresses, the method comprising:

> sequentially performing accessing commands on the odd addresses in the memory
>
> > array; and
>
> sequentially performing data checking commands on the even addresses in the
>
> > memory array that are complementary to the odd addresses.

2. (Previously amended) The method of claim 1, wherein the odd and even addresses are memory rows.

3. (Previously amended) The method of claim 1, wherein the odd and even addresses are memory columns.

4. (Currently amended) A memory interlace-checking method to detect weakened memory, the method comprising.

> executing a test program ~~with command actions~~, wherein the testing program has:
>
> at least a portion of main address accessing data, wherein the main address accessing
>
> > data contains command actions; and
>
> at least a portion of secondary address accessing data, which is at least partially
>
> > complementary to the portion of main address accessing data, wherein the
>
> > secondary address accessing data contains checking actions.

Claim 5 (Cancelled herein).

Claim 6 (Cancelled herein).

Claim 7 (Previously cancelled).

Claim 8 (Previously cancelled).

Claim 9 (Previously cancelled).

Claim 10 (Previously cancelled).

11. (Previously added) A memory interlace-checking method to detect weakened memory in a memory array composed of odd and even addresses, the method comprising:

sequentially performing accessing commands on the even addresses in the memory array; and

sequentially performing data checking commands on the odd addresses in the memory array that are complementary to the even addresses.

12. (Previously added) The method of claim 11, wherein the odd and even addresses are memory rows.

13. (Previously added) The method of claim 11, wherein the odd and even addresses are memory columns.

REMARKS

In response to the claim rejection under 35 U.S.C. 112, on page 2 of the Office Action, the applicant explains Examiner's queries as follows:

As to whether an initializing process is required prior to effect accessing commands, it is noted that initial values are written in the memories as given initial values. However, these initial values are not required to be set to all "zeros" or "ones." In other words, "One" or "zero" may be optionally set in the memory cell as a given initial value.

Based on the description on page 6, line 4, accessing commands in claim 1 includes any writing, reading or refreshing operations.

According to the description quoted from page 5 lines 6-13, *"The method in accordance with the present invention is composed of at least two steps: the main step and the data checking step. In the main step, ...Afterwards, the data checking step provides checking commands that check addresses yet to be triggered in the main step, i.e., the even columns (rows).",* checking commands check the memory addresses yet to be triggered in the main step.

For one skilled in the memory testing field, "checking command" represents reading the present memory values, and then comparing the present memory values with the given initial values.

As mentioned in the description of page 5, while command actions are applied to the odd columns, the yet to be accessed memory addresses, i.e. the even columns, weakened memory addresses in the even columns may possibly be induced by the electromagnetic interference (EMI) because of the command actions. Afterwards, when the data checking step provides checking commands to check the even columns addresses, the weakened memory is thus detected.

With regard to claims 4-6, the applicant incorporates claims 5 and 6 into claim 4. In the present amended claim 4, the subject matter sought to be patented is a memory test method in which

- 4 -

a step of executing a test program is involved, where the test program is further recited to include

command actions as well as checking actions. The applicant asserts that claim 4 is indeed a process

as required by 35 U.S.C. 101, because claim 4 is neither a mathematical formula nor an algorithm.

In response to the applicant's previous argument of December 11, 2003, the Examiner still

maintains that claims 1-6 and 11-13 are unpatentable over the prior art of record.

With reference to the prior art disclosed by the applicant himself (hereinafter admitted prior

art), the conventional memory testing method uses accessing commands (read, write or refresh

commands) to test all memory cells **one bit by one bit**. For example, as shown in Fig. 6A, when

accessing the first row from left to right, the EMI may result in weakening the next row.

However, after finishing the access of the first row and starting the access of the subsequent

row, the second row is strengthened from the weakened state to a normal state due to the accessing

commands applied on the second row. Therefore, the weakened memory is unable to be detected.

However, the present claims 1-6 and 11-13 clearly recite that the testing method indeed has

two acts. For example, claim 1 reads:

"sequentially performing accessing commands on the **odd addresses** in the memory array;

and sequentially performing data checking commands on the **even addresses** in the memory

array that are complementary to the odd addresses."

In the first step, the accessing commands are only applied to the odd addresses of the

memory. That means only a half of memory cells are processed by read, write or refresh commands,

no all memory cells. In the next step, the claim clearly recites that data checking commands are

performed on the even addresses, i.e. the rest of the memory cells are not performed on by the

accessing commands. In the aspect of the literal meanings represented in claim 1, said claim has

explicitly distinguished the difference between the admitted prior art and the invention. Therefore,

the descriptions of the aforementioned two steps should be deemed as obvious limitations that are truly not disclosed in the admitted prior art.

With references to the cited US. Patent 4,513,374 (Hooks hereinafter), the Examiner indicated that since Hooks, as seen in col. 1 line 8 et seq., is related to memory systems for use in storing data for image processor, it is conceivable that the address generation approach thereof be of practical use in any memory systems, including test systems for such memory. Further, the Examiner also notes that to establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

After reviewing the cited U.S. Patent 4,513,374, the applicant admits that Hooks indeed disclosed a memory system. However, the purpose of the memory system is for use in the image processing systems, not for use in the memory test. Based on the entire description of the patent, Hooks's disclosure obviously is directed to improve image generating process by his memory system. Even in col. 5 lines 19-24 of the patent, which is pointed out by the Examiner in the first Office Action to reject the referenced application under 35 U.S.C. 103(a), Hooks's disclosure is still directed to the image generating process. In column 20, line 21, the description is directed to produce interlaced video. Further, in line 23, which reads "...540 for even fields and ...540 for odd fields, it is noted that 540 is the number of pixel(s). The description in column 20, lines 44 further explicitly explains the image generating process, which reads

> "However, when it is desired to monitor the signal on a monitor screen, it must be input into the monitor in the interlaced mode for clarity of viewing, and the signal stored in the non-interlaced mode in the frame

buffer memory 214 is converted to interlaced mode by being read out in interlaced mode."
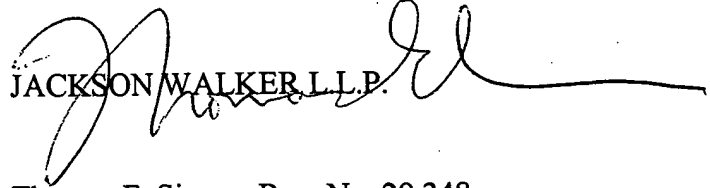
It is noted that what is interlaced is the way in which the image signal is input into the monitor, and Hooks does not mention any memory testing problems or approaches either in the background or the detailed description. Memory devices have been widely used in many electronic apparatus or systems. To fit a unique requirement, a particular memory system may be proposed, as such in Hooks's disclosure. However, such a memory system is not directed to a "memory testing" technique, and should not be deemed as conceivable for a person to base on the memory system to find a solution for overcoming problems of memory test.

For one skilled in the memory testing field, it is questionable whether there will be a motive to refer to this cited patent. Furthermore, a key point of concern is that the objective of the present invention is to detect the weakened memory cells. Therefore, even referring to Hooks's description, another question is whether the image interlacing process can inspire one to propose a solution for weakened memory detecting, as in the present invention.

Although the Examiner indicates that when establishing a prima facie case of obviousness, the knowledge generally available to one of ordinary skill in the art is a basis, the applicant asserts that the "one of ordinary skill in the art" should be interpreted as one of ordinary skill in the memory testing art, **not** in the image processing art.

The applicant, therefore, respectfully asks the Examiner to reconsider his basis for rejection of the claims and issue a Notice of Allowance.

Respectfully submitted,

JACKSON WALKER L.L.P.

Thomas E. Sisson, Reg. No. 29,348
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Attorneys for Applicant

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, with sufficient postage as Express Mail (37 CFR 1.8(a)), in an envelope addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

<u>Via Express Mail No. EV298841847US</u>

Date: 6-21-04

Laura Pope
Laura Pope

- 9 -

P-3641.147   TES:lcp   Date: June 21, 2004

In re Application Of: Chen-Tsai LEE
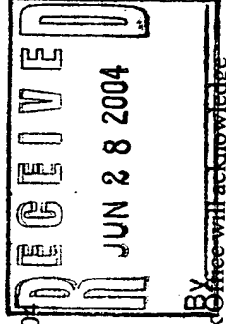Serial No. 09/886,225;   Filed June 21, 2001
Title: MEMORY INTERLACE-CHECKING METHOD

The date stamp and serial number of the U.S. Patent and Trademark Office will acknowledge receipt.

--Extension of Time
--Amendment and Response
--Check for $110.00

Via Express Mail No. EV298841847US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of: 　Chen-Tsai LEE	§	Attorney Docket No.: P-3641.147
	§	
Serial No.: 09/886,225	§	Group Art Unit: 3661
	§	
Filed: June 21, 2001	§	Examiner: G. Lamarre
	§	
Title: MEMORY INTERLACE- 　　CHECKING METHOD	§	
	§	

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

STATUS REQUEST

Applicant respectfully requests the status of the above identified patent application.

A final office action was mailed February 27, 2004. On June 21, 2004 the applicant filed an

Amendment and Response with a request for a one-month time extension to and including June 27,

2004. Attached is a copy of the return stamped postcard showing Office receipt of the Amendment

and Response, the Extension of Time, and the payment of the fee. To date, the Applicant has not

received any further written communication from the Office.

Please advise the Applicant of the status of this application.

<div style="text-align:right">

Respectfully submitted,
JACKSON WALKER L.L.P.

Thomas E. Sisson, Reg. No. 29,348
112 E. Pecan Street, Suite 2100
San Antonio, Texas 78205
Phone: (210) 978-7700
Fax:　(210) 978-7790
Attorneys for Applicant

</div>

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, with sufficient postage as First Class Mail (37 CFR 1.8(a)), in an envelope addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Date: December 1, 2004

Nancy Sertich

3746859v1

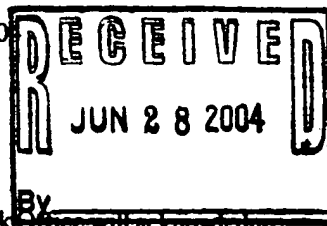P-3641.147   TES:lcp   Date: June 21, 200[4]

In re Application Of: Chen-Tsai LEE
Serial No. 09/886,225;   Filed June 21, 2001
Title: MEMORY INTERLACE-CHECKING METHOD

The date stamp and serial number of the U.S. Patent and Trademark Office will acknowledge receipt.

--Extension of Time
--Amendment and Response
--Check for $110.00

Via Express Mail No. EV298841847US

P-3641.147   TES:ns   Date: December __, 2004

In re Application Of: Chen-Tsai LEE
Serial No. 09/886,225;   Filed June 21, 2001
Title: MEMORY INTERLACE-CHECKING METHOD

The date stamp and serial number of the U.S. Patent and Trademark Office will acknowledge receipt.

❖   Status Request

Via First Class Mail

P-3641.147   TES:ns   Date: December 1, 2004

In re Application Of: Chen-Tsai LEE
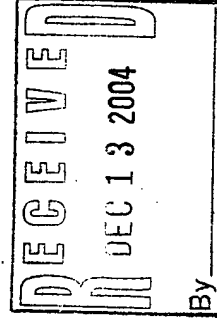Serial No. 09/886,225;   Filed June 21, 2001
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The date stamp and serial number of the U.S. Patent and Trademark Office will acknowledge receipt.
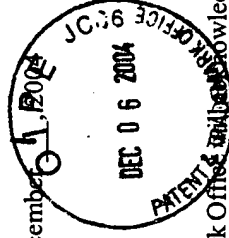
❖ Status Request

Via First Class Mail

Auto-Reply Facsimile Transmission

TO: Fax Sender at 2109787790

Fax Information
Date Received: 12/29/2004 2:16:01 PM [Eastern Standard Time]
Total Pages: 13 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.
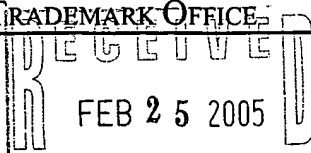
Received Cover Page ========>

12/29/2004 13:13 FAX 2109787790   Jackson Walker   ☑001

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San Antonio, Texas 78205
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FACSIMILE

DATE: December 29, 2004   DIRECT DIAL NUMBER: (210) 978-7754

FROM: Thomas E. Sisson   DIRECT FAX NUMBER: (210) 242-4623

NAME	COMPANY NAME	FACSIMILE NUMBER	PHONE NUMBER
Examiner Lamarre	USPTO	703-872-9306	

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TK ID: TES1   PAGE COUNT: 13

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MESSAGE:

Dear Sir: Thomas Sisson is out of the state all this week in depositions. He will call you next week concerning this patent application. Please see attached a copy of an Extension of Time, An Amendment and Response to Final Office Action dated February 27, 2004, and our check for $110.00 mailed to you via Express Mail No. EV298841847US, on June 21, 2004.
Laura Pope, Secretary to Thomas E. Sisson

Austin
Dallas
Fort Worth
Houston
Richardson
San Angelo
San Antonio

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PAGE 1/13 * RCVD AT 12/29/2004 2:16:01 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/3 * DNIS:8729306 * CSID:2109787790 * DURATION (mm-ss):03-12

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,225	06/21/2001	Chen-Tsai Lee	P-3641.147	5860

7590   02/23/2005

Jackson Walker L.L.P.
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San Antonio, TX 78205

EXAMINER
LAMARRE, GUY J

ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 6/21/04 and 12/6/04 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will __not__ be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): 35 usc 101 & 112.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a)☐ will not be entered, or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: 1-4 and 11-13.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will __not__ be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will __not__ be entered because the affidavit or other evidence failed to overcome __all__ rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Guy J. Lamarre, P.E
Primary Examiner
2/14/05

Continuation of 11. does NOT place the application in condition for allowance because: The claims still read on the prior art of record a indicated in the final office action.

Applicants are reminded that "Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. > E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into th claims unnecessarily).< In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) "